

(a)(4) of this section is due, the importer should contact Customs officials at the port of entry, not the Department of Commerce.

[47 FR 32517, July 28, 1982, as amended at 66 FR 28834, May 25, 2001]

§ 301.9 Uses and disposition of instruments entered under subheading 9810.00.60, HTSUS.

(a) An instrument granted duty-free entry may be transferred from the applicant institution to another eligible institution provided the receiving institution agrees not to use the instrument for commercial purposes within 5 years of the date of entry of the instrument. In such cases title to the instrument must be transferred directly between the institutions involved. An institution transferring a foreign instrument entered under subheading 9810.00.60, HTSUS within 5 years of its entry shall so inform the Customs Port in writing and shall include the following information:

- (1) The name and address of the transferring institution.
- (2) The name and address of the transferee.
- (3) The date of transfer.
- (4) A detailed description of the instrument.
- (5) The serial number of the instrument and any accompanying accessories.
- (6) The entry number, date of entry, and port of entry of the instrument.

(b) Whenever the circumstances warrant, and occasionally in any event, the fact of continued use for 5 years for noncommercial purposes by the applicant institution shall be verified by Customs.

(c) If an instrument is transferred in a manner other than specified above or is used for commercial purposes within 5 years of entry, the institution for which such instrument was entered shall promptly notify the Customs officials at the Port and shall be liable for the payment of duty in an amount determined on the basis of its condition as imported and the rate applicable to it.

[47 FR 32517, July 28, 1982, as amended at 66 FR 28834, May 25, 2001]

§ 301.10 Importation of repair components and maintenance tools under HTSUS subheadings 9810.00.65 and 9810.00.67 for instruments previously the subject of an entry liquidated under subheading 9810.00.60, HTSUS.

(a) An institution owning an instrument that was the subject of an entry liquidated duty-free under subheading 9810.00.60, HTSUS, that wishes to enter repair components or maintenance tools for that instrument may do so without regard to the application procedures required for entry under subheading 9810.00.60, HTSUS. The institution must certify to Customs officials at the port of entry that such components are repair components for that instrument under subheading 9810.00.65, HTSUS, or that the tools are maintenance tools necessary for the repair, checking, gauging or maintenance of that instrument under subheading 9810.00.67, HTSUS.

(b) Instruments entered under subheading 9810.00.60, HTSUS, and subsequently returned to the foreign manufacturer for repair, replacement or modification are not covered by subheading 9810.00.65 or 9810.00.67, HTSUS, although they may, upon return to the United States, be eligible for a reduced duty payment under subheading 9802.00.40 or 9802.00.50, HTSUS (covering articles exported for repairs or alterations) or may be made the subject of a new application under subheading 9810.00.60, HTSUS.

[66 FR 28834, May 25, 2001]

PART 302 [RESERVED]

PART 303—WATCHES, WATCH MOVEMENTS AND JEWELRY PROGRAM

Subpart A—Watches and Watch Movements

Sec.

- 303.1 Purpose.
- 303.2 Definitions and forms.
- 303.3 Determination of the total annual duty-exemption.
- 303.4 Determination of territorial distribution.
- 303.5 Application for annual allocations of duty-exemptions.

§ 303.1

- 303.6 Allocation and reallocation of exemptions among producers.
- 303.7 Issuance of licenses and shipment permits.
- 303.8 Maintenance of duty-exemption entitlements.
- 303.9 Restrictions on the transfer of duty-exemptions.
- 303.10-303.11 [Reserved]
- 303.12 Issuance and use of production incentive certificates.
- 303.13 Appeals.
- 303.14 Allocation factors and miscellaneous provisions.

Subpart B—Jewelry

- 303.15 Purpose.
- 303.16 Definitions and forms.
- 303.17 Annual jewelry application.
- 303.18 Sale and transfer of business.
- 303.19 Issuance and use of production incentive certificates.
- 303.20 Duty refund.
- 303.21 Appeals.

AUTHORITY: Pub. L. 97-446, 96 Stat. 2331 (19 U.S.C. 1202, note); Pub. L. 103-465, 108 Stat. 4991; Pub. L. 94-241, 90 Stat. 263 (48 U.S.C. 1681, note); Pub. L. 106-36, 113 Stat. 167.

SOURCE: 49 FR 17740, Apr. 25, 1984, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 303 appear at 68 FR 56555, Oct. 1, 2003.

Subpart A—Watches and Watch Movements

§ 303.1 Purpose.

(a) This part implements the responsibilities of the Secretaries of Commerce and the Interior (“the Secretaries”) under Pub. L. 97-446, enacted on 12 January 1983, which substantially amended Pub. L. 89-805, enacted 10 November 1966, amended by Pub. L. 94-88, enacted 8 August 1975, and amended by Pub. L. 94-241, enacted 24 March 1976, and amended by Pub. L. 103-465, enacted 8 December 1994. The law provides for exemption from duty of territorial watches and watch movements without regard to the value of the foreign materials they contain, if they conform with the provisions of U.S. Legal Note 5 to Chapter 91 of the Harmonized Tariff Schedule of the United States (“91/5”). 91/5 denies this benefit to articles containing any material which is the product of any country with respect to which Column 2 rates of duty apply; authorizes the Secre-

15 CFR Ch. III (1-1-05 Edition)

taries to establish the total quantity of such articles, provided that the quantity so established does not exceed 10,000,000 units or one-ninth of apparent domestic consumption, whichever is greater, and provided also that the quantity is not decreased by more than ten percent nor increased by more than twenty percent (or to more than 7,000,000 units, whichever is greater) of the quantity established in the previous year.

(b) The law directs the International Trade Commission to determine apparent domestic consumption for the preceding calendar year in the first year U.S. insular imports of watches and watch movements exceed 9,000,000 units. 91/5 authorizes the Secretaries to establish territorial shares of the overall duty-exemption within specified limits; and provides for the annual allocation of the duty-exemption among insular watch producers equitably and on the basis of allocation criteria, including minimum assembly requirements, that will reasonably maximize the net amount of direct economic benefits to the insular possessions.

(c) The amended law also provides for the issuance to producers of certificates entitling the holder (or any transferee) to obtain duty refunds on watches and watch movements and parts (except discrete watchcases) imported into the customs territory of the United States. The amounts of these certificates may not exceed specified percentages of the producers’ verified creditable wages in the insular possessions (90% of wages paid for the production of the first 300,000 units and declining percentages, established by the Secretaries, of wages paid for incremental production up to 750,000 units by each producer) nor an aggregate annual amount for all certificates exceeding \$5,000,000 adjusted for growth by the ratio of the previous year’s gross national product to the gross national product in 1982. Refund requests are governed by regulations issued by the Department of Homeland Security. The Secretaries are authorized to issue regulations necessary to carry out their duties under Headnote 6 and may

cancel or restrict the license or certificate of any insular manufacturer found violating the regulations.

[49 FR 17740, Apr. 25, 1984, as amended at 50 FR 43568, Oct. 28, 1985; 53 FR 52994, Dec. 30, 1988; 61 FR 55884, Oct. 30, 1996]

§ 303.2 Definitions and forms.

(a) *Definitions.* Unless the context indicates otherwise:

(1) *Act* means Pub. L. 97-446, enacted January 12, 1983 (19 U.S.C. 1202), 96 Stat. 2329, as amended by Pub. L. 103-465, enacted on December 8, 1994, 108 Stat. 4991.

(2) *Secretaries* means the Secretary of Commerce and the Secretary of Interior or their delegates, acting jointly.

(3) *Director* means the Director of the Statutory Import Programs Staff, International Trade Administration, U.S. Department of Commerce.

(4) *Sale or transfer of a business* means the sale or transfer of control, whether temporary or permanent, over a firm to which a duty-exemption has been allocated, to any other firm, corporation, partnership, person or other legal entity by any means whatsoever, including, but not limited to, merger and transfer of stock, assets or voting trusts.

(5) *New firm* is a watch firm not affiliated through ownership or control with any other watch duty-refund recipient. In assessing whether persons or parties are affiliated, the Secretaries will consider the following factors, among others: stock ownership; corporate or family groupings; franchise or joint venture agreements; debt financing; and close supplier relationships. The Secretaries may not find that control exists on the basis of these factors unless the relationship has the potential to affect decisions concerning production, pricing, or cost. Also, no watch duty-refund recipient may own or control more than one jewelry duty-refund recipient. A new entrant is a new watch firm which has received an allocation.

(6) *Producer* means a duty-exemption holder which has maintained its eligibility for further allocations by complying with these regulations.

(7) *Established industry* means all producers, including new entrants, that

have maintained their eligibility for further allocations.

(8) *Territories, territorial, and insular possessions* refer to the insular possessions of the United States (i.e., the U.S. Virgin Islands, Guam, and American Samoa) and the Northern Mariana Islands.

(9) *Duty-exemption* refers to the authorization of duty-free entry of a specified number of watches and watch movements into the Customs Territory of the United States.

(10) *Total annual duty-exemption* refers to the entire quantity of watches or watch components which may enter duty-free into the customs territory of the United States from the territories under 91/5 in a calendar year, as determined by the Secretaries or by the International Trade Commission in accordance with the Act.

(11) *Territorial distribution* refers to the apportionment by the Secretaries of the total annual duty-exemption among the separate territories; *territorial share* means the portion consigned to each territory by this apportionment.

(12) *Allocation* refers to the distribution of all parts of a territorial share, or a portion thereof, among the several producers in a territory.

(13) *Creditable wages* means all wages, up to an amount equal to 65% of the contribution and benefit base for Social Security as defined in the Social Security Act for the year in which the wages were earned, paid to permanent residents of the territories employed in a firm's 91/5 watch and watch movement assembly operations, plus wages paid for the repair of non-91/5 watches up to an amount equal to 50% of the firm's total creditable wages, and for wages paid for the complete assembly of watches in the insular possession, with the exception of the movement, only in situations where the desired movement can not be purchased in an unassembled condition. Excluded, however, are wages paid to any outside consultants or other professional personnel, such as lawyers and accountants, or to those persons not involved in the day-to-day assembly operations or servicing and maintenance of equipment and fixtures necessary for the assembly or manufacturing operations or